

A.G. CONTRACT NO. 82-647

Project: I-10-3-943  
Highway: PHOENIX-CASA GRANDE  
Section: Southern Ave.  
Undercrossing of I-10  
County: Maricopa

INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF TEMPE

THIS AGREEMENT entered into this 16th day of December, 1982 between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter called "State", and the City of Tempe acting by and through its Mayor and Council, hereinafter called the "City".

WHEREAS, State is empowered by Section 28-108 Arizona Revised Statutes to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and the Director of the Arizona Department of Transportation has delegated to the undersigned the authority to execute same on behalf of the State; and

WHEREAS, the City is empowered by Sections 9-240; 9-276 and 11-951 et seq. Arizona Revised Statutes and also by the Tempe City Charter to enter into this agreement and acting by and through its Mayor and Council, has, by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute same on behalf of the City; and

WHEREAS, the City is currently involved in certain paving contracts in the area of the Southern Avenue Undercrossing of Interstate 10 (Phoenix-Casa Grande Highway), and

WHEREAS, it is to the mutual benefit of both parties to include the paving of said Southern Avenue which lies within the right of way limits of said Interstate 10 in a contract to be entered into by the City as an expedient method of performing this work at the earliest possible date and with the least amount of interruption of traffic; and

WHEREAS, the right of way limits of this proposed paving are between H.E.S. 6 + 00.00 to H.E.S. 23 + 50.00 of said Southern Avenue and will require the use of approximately 9,400 square yards of new A.C. and expense for milling, mobilization, traffic control and Engineering, for a cost not to exceed the sum of \$34,800.00 the exact amount to be determined by measurement and inspection during the paving work within such right of way limits;

WHEREFORE THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:

THE CITY SHALL:

1. Call for bids and include within one of their paving contracts the right of way area where repaving is needed between the above described Highway Engineering Stations of the Southern Avenue Undercrossing of Interstate 10, the cost of which shall not exceed the sum of \$3.48 per square yard for new A.C., milling of the top 1½ inches of the existing pavement and replacement with 1½ inches of new A.C. and include costs for mobilization, traffic control and engineering, the total sum of which shall not exceed \$34,800.00.

NO. .... 8215  
FILED WITH SECRETARY OF STATE

Date Filed

12-16-82

Secretary of State

2. Supervise, inspect and determine that all work and materials used in such contract shall meet all State and Federal Specifications for such paving work.

3. Upon completion of the contract pay the contractor for such work performed within the said right of way limits of the Southern Avenue Undercrossing of Interstate 10.

4. After final inspection and completion of said contract and payment therefore by the City, promptly submit a billing to the State for such paving work in a total sum not to exceed the amount of \$34,800.00.

5. Act as agent for the State in procurement, awarding and supervising such contract;

THE STATE SHALL:

1. Periodically, during the paving work, make inspection, take measurements and determine the quality and quantity of the materials used and insure that such is being done according to State and Federal standards and also insure that adequate safeguards are being taken to control traffic.

2. Make final inspection when the contract is completed and upon determination that such work has been adequately performed, promptly pay the billing submitted by the City for the work done under such contract as shall be agreed upon between the parties and within the limits and sums described above.

3. Upon completion of the contract resume regular maintenance and control of said section of Southern Avenue lying within the right of way limits of Interstate 10 including signing and striping of the area of the repaving to conform to State and Federal standards.

THE PARTIES HERETO FURTHER MUTUALLY AGREE AS FOLLOWS:

1. That all future maintenance and repair of said roadway right of way shall be the sole responsibility of the State.

2. The State does hereby grant to the City an exclusive temporary easement for use by its agents, contractors, vehicles, maintenance and construction machinery or other necessary uses during the period of construction and repaving of the above described right of way of said Southern Avenue.

3. This agreement shall terminate upon completion of the work herein embraced in accordance with the terms of this agreement or may be terminated at any time prior to the awarding of the construction contract by 10 days notice in writing to that intent. All parties are hereby put on notice that this agreement is subject to cancellation by the Governor of Arizona, pursuant to Arizona Revised Statutes, Section 38-511.

4. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Section 12-1518(B) and (C) of Arizona Revised Statutes as amended.

5. This agreement shall be filed with the Arizona Secretary of State and shall become effective upon filing.

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IN WITNESS WHEREOF, the parties have executed this agreement.

Attest:

CITY OF TEMPE

By Virginia J. Thompson  
City Clerk

By Harry E. Mitchell  
Title Mayor

Date: November 3, 1982

STATE OF ARIZONA  
ARIZONA DEPARTMENT OF  
TRANSPORTATION

Date: December 16, 1982

By W. O. Ford  
Chief Deputy State Engineer

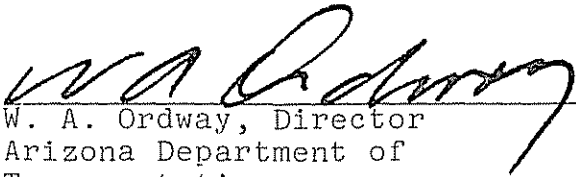
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Project: I-10-3-943  
Highway: PHOENIX-CASA GRANDE  
Section: Southern Ave. G.S.  
and Baseline T.I.

RESOLUTION

BE IT RESOLVED on this 30th day of September, 1982, that I, W. A. Ordway, as Director, ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the State of Arizona that the DEPARTMENT OF TRANSPORTATION, acting by and through the Highways Division, enter into an Intergovernmental Agreement with the City of Tempe for improvement of the Phoenix-Casa Grande Highway (Project I-10-3-943) for paving of the Southern Avenue undercrossing of I-10. Paving to be done by City of Tempe and payment to be from Arizona Department of Transportation funds upon completion.

Therefore, authorization is hereby given to draft said Agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.

  
W. A. Ordway, Director  
Arizona Department of  
Transportation

HJR:ea

RESOLUTION NO. 1779

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT WITH THE STATE OF ARIZONA FOR THE SOUTHERN AVENUE UNDERCROSSING AT THE I-10 FREEWAY.

WHEREAS, the City is currently involved in certain paving contracts in the area of the Southern Avenue Undercrossing of Interstate 10 (Phoenix-Casa Grande Highway), and

WHEREAS, it is to the mutual benefit of both parties to include the paving of said Southern Avenue which lies within the right-of-way limits of said Interstate 10 in a contract to be entered into by the City as an expedient method of performing this work at the earliest possible date and with the least amount of interruption of traffic;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL of the City of Tempe, Arizona, as follows:

That the Mayor of the City of Tempe is hereby authorized to execute an agreement with the State of Arizona for the improvement of the Phoenix-Casa Grande Highway (Project I-10-3-943) for paving of the Southern Avenue undercrossing of I-10. Paving is to be done by the City of Tempe and payment to be from the Arizona Department of Transportation funds upon completion.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, STATE OF ARIZONA, this 28th day of October, 1982.

ATTEST:

Virginia L. Thompson  
City Clerk

Patricia C. Hutton  
Vice - Mayor

APPROVED AS TO FORM:

David R. Marshall  
City Attorney

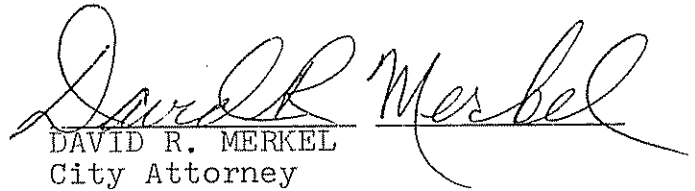
JRP:veb

APPROVAL OF TEMPE CITY ATTORNEY

I hereby state that I have reviewed the proposed intergovernmental agreement, between the STATE  
OF ARIZONA, and the CITY OF TEMPE, and declare the agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the City, to enter into said agreement.

DATED this 3rd day of November, 1982.

  
DAVID R. MERKEL  
City Attorney



OFFICE OF THE  
**Attorney General**

TRANSPORTATION DIVISION  
1275 WEST WASHINGTON  
PHOENIX, ARIZONA 85007  
(602) 255-1680

ROBERT K. CORBIN  
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT

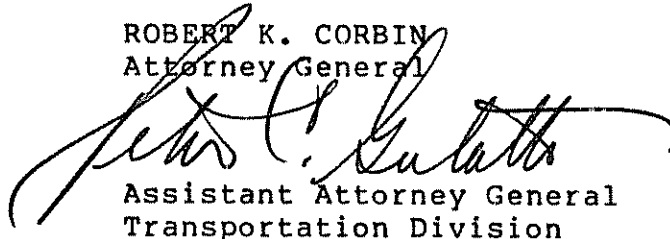
DETERMINATION

A. G. Contract No. 82-647, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. Sec. 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 13 day of December, 1982.

ROBERT K. CORBIN  
Attorney General

  
Assistant Attorney General  
Transportation Division